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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,791	02/01/2001	Sherry L. Neuman	ISCR007/00US	2627

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EXAMINER	
NAJARIAN, LENA	

ART UNIT	PAPER NUMBER
3626	

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/774,791	NEUMAN ET AL.	
	Examiner	Art Unit	
	Lena Najarian	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 May 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9,12-22,24-31,33,34,36,38-40 and 42-91* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9,12-22,24-31,33,34,36,38-40 and 42-91* is/are rejected.

7)☒ Claim(s) *20* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *20050207*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed 5/4/05. Claims 1-9, 12-22, 24-31, 33-34, 36, 38-40, and 42-91 are pending. Claims 1, 12, 14, 20-21, 24-25, 36, 38-39, 45, 47, 49, 51, 53, 65, 67, 70, 79, and 88 have been amended. Claims 10, 11, 23, 32, 35, 37, and 41 have been cancelled. Claims 89-91 are newly added.

Drawings

2. The objection to the drawings is hereby withdrawn due to the amendment filed 5/4/05.

Claim Objections

3. Claim 20 is objected to because of the following informalities: repetitive/unclear language in line 3 ("prescriptions a prescription for a drug"). Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The rejection of claims 1-19 and 24-37 under 35 U.S.C. 112, second paragraph, is hereby withdrawn due to the amendment filed 5/4/05.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-2, 9, 14-21, 24-27, 29-31, 33-34, 36, 38-40, 42-53, 55-58, 62-63, 65-68, 71-88, and 90 are rejected under 35 U.S.C. 102(e) as being anticipated by Goetz et al. (US 6,421,650 B1).

(A) Claims 1 and 25 have been amended to now recite "transmitting the prescription and override over a network to a prescription processor;

wherein the prescription processor, upon receipt of the prescription, attempts to process the prescription and actuates a second drug use evaluation, and if a resultant drug use evaluation alert is correspondent to said override of the user, the prescription processor processes the prescription." The Examiner respectfully submits that Goetz discloses at col. 12, lines 51-59 and col. 6, lines 22-26, the use of a network to transmit information. In addition, Fig. 6 shows the various components of the system in communication with each other (the Examiner interprets "pharmacist" to be a form of "prescription processor"). Also, Goetz discloses at col. 11, line 52 – col. 12, line 10, the pharmacist augmenting the physician provided data and adding more up to date administration cautions and instructions. Goetz discloses that the pharmacist component may flag

additional potential drug interactions (the Examiner interprets "additional potential drug interactions" to be a form of "second drug use evaluation"). In addition, Goetz discloses at col. 11, line 63 – col. 12, line 9, the detection of potential interactions by the physician and similarly, a check of potential interactions and cautions performed by the pharmacist and that the pharmacist has the ability to override the software warning and prescribe the drug anyway. As such, it is readily apparent that Goetz discloses transmitting the prescription and override over a network to a prescription processor; wherein the prescription processor, upon receipt of the prescription, attempts to process the prescription and actuates a second drug use evaluation, and if a resultant drug use evaluation alert is correspondent to said override of the user, the prescription processor processes the prescription.

The remainder of claims 1 and 25 are rejected for the same reasons given in the prior Office Action, and incorporated herein.

(B) Claims 14 and 53 have been amended to merely change claim dependencies. However, these changes do not affect the scope and breadth of the claims as originally presented and/or in the manner in which the claims were interpreted by the Examiner when applying prior art within the previous Office Action. As such, these claims are rejected under the same rationale given in the prior Office Action, and incorporated herein.

(C) The amendments to claims 21, 39, 65, 67, and 88 appear to have been made to merely correct minor typographical or grammatical errors (i.e., removing dashes, removing repetitive language, and re-arranging the order of claim

elements so that the language of the claim is smoother and more consistent), but otherwise do not affect the scope and breadth of the claims as originally presented and/or in the manner in which the claims were interpreted by the Examiner when applying prior art within the previous Office Action.

As such, the recited claimed features are rejected for the same reasons given in the prior Office Action, and incorporated herein.

(D) Claim 20 has been amended to now recite "transmitting the prescription and a reason for overriding the drug use evaluation alert over a network to a prescription processor;

wherein the prescription processor, upon receipt of the prescription, attempts to process the prescription and actuates a second drug use evaluation, and if a resultant drug use evaluation alert is correspondent to said override of the user, the prescription processor processes the prescription." The Examiner respectfully submits that Goetz discloses at col. 12, lines 51-59 and col. 6, lines 22-26, the use of a network to transmit information. In addition, Fig. 6 shows the various components of the system in communication with each other (the Examiner interprets "pharmacist" to be a form of "prescription processor"). Also, Goetz discloses at col. 11, line 52 – col. 12, line 10, the pharmacist augmenting the physician provided data and adding more up to date administration cautions and instructions. Goetz discloses that the pharmacist component may flag additional potential drug interactions (the Examiner interprets "additional potential drug interactions" to be a form of "second drug use evaluation"). In addition, Goetz discloses at col. 11, line 63 – col. 12, line 9, the detection of potential

interactions by the physician and similarly, a check of potential interactions and cautions performed by the pharmacist and that the pharmacist has the ability to override the software warning and prescribe the drug anyway. As such, it is readily apparent that Goetz discloses transmitting the prescription and a reason for overriding the drug use evaluation alert over a network to a prescription processor; wherein the prescription processor, upon receipt of the prescription, attempts to process the prescription and actuates a second drug use evaluation, and if a resultant drug use evaluation alert is correspondent to said override of the user, the prescription processor processes the prescription.

The remainder of claim 20 is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(E) The amendment to claim 24 was apparently made to overcome 112, 2nd paragraph issues set forth in the prior Office Action. However, these changes do not affect the scope and breadth of the claim as originally presented and/or in the manner in which the claim was interpreted by the Examiner when applying prior art within the previous Office Action. As such, this claim is rejected under the same rationale given in the prior Office Action, and incorporated herein.

(F) Claim 36 has been amended to now recite "transmit the prescription and motive for overriding a drug use evaluation alert over a network to a prescription processor;

wherein the prescription processor, upon receipt of the prescription, attempts to process the prescription and actuates a second drug use evaluation, and if a resultant drug use evaluation alert is correspondent to said override of

the user, the prescription processor processes the prescription." The Examiner respectfully submits that Goetz discloses at col. 12, lines 51-59 and col. 6, lines 22-26, the use of a network to transmit information. In addition, Fig. 6 shows the various components of the system in communication with each other (the Examiner interprets "pharmacist" to be a form of "prescription processor"). Also, Goetz discloses at col. 11, line 52 – col. 12, line 10, the pharmacist augmenting the physician provided data and adding more up to date administration cautions and instructions. Goetz discloses that the pharmacist component may flag additional potential drug interactions (the Examiner interprets "additional potential drug interactions" to be a form of "second drug use evaluation"). In addition, Goetz discloses at col. 11, line 63 – col. 12, line 9, the detection of potential interactions by the physician and similarly, a check of potential interactions and cautions performed by the pharmacist and that the pharmacist has the ability to override the software warning and prescribe the drug anyway. As such, it is readily apparent that Goetz discloses transmitting the prescription and motive for overriding a drug use evaluation alert over a network to a prescription processor; wherein the prescription processor, upon receipt of the prescription, attempts to process the prescription and actuates a second drug use evaluation, and if a resultant drug use evaluation alert is correspondent to said override of the user, the prescription processor processes the prescription.

The remainder of claim 36 is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(G) Claim 38 has been amended to now recite receiving from an electronic device configured to create prescriptions for patients "a prescription" and "attempting to process the prescription by actuating a second drug use evaluation; and if a resultant drug use evaluation alert is correspondent to said override of the user, processing the prescription;

wherein the user entered a prescription via an electronic prescription creation device; viewed a drug use evaluation alert on a graphical user interface of the electronic prescription creation device; viewed on the graphical user interface a query of whether the user desired to override the drug use evaluation alert; entered an override of the drug use evaluation alert via the electronic prescription creation device; and transmitted the prescription and override over a network. The Examiner respectfully submits that Goetz discloses at col. 11, line 52 – col. 12, line 10, the pharmacist augmenting the physician provided data and adding more up to date administration cautions and instructions. Goetz discloses that the pharmacist component may flag additional potential drug interactions (the Examiner interprets "additional potential drug interactions" to be a form of "second drug use evaluation"). In addition, Goetz discloses at col. 11, line 63 – col. 12, line 9, the detection of potential interactions by the physician and similarly, a check of potential interactions and cautions performed by the pharmacist and that the pharmacist has the ability to override the software warning and prescribe the drug anyway. As such, it is readily apparent that Goetz discloses attempting to process the prescription by actuating a second

drug use evaluation; and if a resultant drug use evaluation alert is correspondent to said override of the user, processing the prescription.

Also, it is readily apparent that Goetz discloses wherein the user entered a prescription via an electronic prescription creation device (abstract, lines 1-12); viewed a drug use evaluation alert on a graphical user interface of the electronic prescription creation device (abstract, lines 19-25 and col. 4, lines 50-52); viewed on the graphical user interface a query of whether the user desired to override the drug use evaluation alert (col. 12, lines 3-10); entered an override of the drug use evaluation alert via the electronic prescription creation device (Fig. 24); and transmitted the prescription and override over a network (col. 12, lines 51-59 and col. 6, lines 22-26).

The remainder of claim 38 is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(H) Claim 45 has been amended to now recite "computer-readable program code causing an electronic prescription creation device to create an electronic prescription;

computer-readable program code for transmitting the override over a network to a prescription processor;

wherein the prescription processor, upon receipt of the prescription, attempts to process the prescription and actuates a second drug use evaluation; and if a resultant drug use evaluation alert is correspondent to said override of the user, the prescription processor processes the prescription."

The Examiner respectfully submits that Goetz discloses computer-readable program code causing an electronic prescription creation device to create an electronic prescription (Fig. 29 and col. 8, lines 52-67);

computer-readable program code for transmitting the override over a network to a prescription processor (Fig. 1, col. 12, lines 51-59, and col. 6, lines 22-26);

wherein the prescription processor, upon receipt of the prescription, attempts to process the prescription and actuates a second drug use evaluation; and if a resultant drug use evaluation alert is correspondent to said override of the user, the prescription processor processes the prescription (col. 11, line 52 – col. 12, line 10).

The remainder of claim 45 is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(l) Claim 47 has been amended to now recite "the electronic device including means for transmitting the override for the drug use evaluation over a network to a prescription processor;

wherein the prescription processor, upon receipt of the prescription, attempts to process the prescription and actuates a second drug use evaluation, and if a resultant drug use evaluation alert is correspondent to said override of the user, the prescription processor processes the prescription."

The Examiner respectfully submits that Goetz discloses at Fig. 6, col. 8, lines 52-67, and col. 11, lines 29-37, the electronic device including means for transmitting the override for the drug use evaluation over a network to a

prescription processor. Also, the Examiner respectfully submits that Goetz discloses at col. 11, line 52 – col. 12, line 10, the pharmacist augmenting the physician provided data and adding more up to date administration cautions and instructions. Goetz discloses that the pharmacist component may flag additional potential drug interactions (the Examiner interprets "additional potential drug interactions" to be a form of "second drug use evaluation"). In addition, Goetz discloses at col. 11, line 63 – col. 12, line 9, the detection of potential interactions by the physician and similarly, a check of potential interactions and cautions performed by the pharmacist and that the pharmacist has the ability to override the software warning and prescribe the drug anyway. As such, it is readily apparent that Goetz discloses wherein the prescription processor, upon receipt of the prescription, attempts to process the prescription and actuates a second drug use evaluation, and if a resultant drug use evaluation alert is correspondent to said override of the user, the prescription processor processes the prescription.

The remainder of claim 47 is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(J) Claim 49 has been amended to now recite "at least one representation allowing the user to transmit the override over a network." The Examiner respectfully submits that Goetz discloses at col. 11, lines 29-39 and col. 6, lines 22-26, the physician choosing "yes" on the screen. As such, it is readily apparent that Goetz discloses at least one representation allowing the user to transmit the override over a network.

The remainder of claim 49 is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(K) Claim 51 has been amended to now recite a prescription "for a drug to prescribe to" a patient and viewing on a graphical user interface of the electronic prescription creation device a query of whether the drug is to be dispensed as written "instead of a substitutable generic drug." The Examiner respectfully submits that Goetz suggests at col. 12, lines 3-19, the option of dispensing drugs as written when substitute drugs are either unavailable or would cause even more severe interactions. Also, at Fig. 15, Goetz discloses the option of clicking on "generic equivalent."

The remainder of claim 51 is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(L) Claim 79 has been amended to now recite "entering via" an electronic device configured to create prescriptions a reason why a prescription "of a drug" created by the electronic device is to be dispensed as written. The Examiner respectfully submits that Goetz discloses at lines 8-12 of the abstract, a prescribing physician entering information into a component.

The remainder of claim 79 is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(M) Claims 2, 9, 15-19, 26-27, 29-31, 33-34, 40, 42-44, 46, 48, 50, 52, 55-58, 62-63, 66, 71-78, and 80-88 have not been amended and are rejected for the same reasons given in the previous Office Action, and incorporated herein.

(N) Referring to claim 90, Goetz discloses wherein the prescription includes information communicating the drug use evaluation alert (col. 11, lines 48-62 of Goetz).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 3-8, 22, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goetz et al. (US 6,421,650 B1) as applied to claims 1-2, 20-21, and 25-26 above, and further in view of Edelson et al. (5,737,539).

(A) Claims 3-8, 22, and 28 have not been amended and are rejected for the same reasons given in the previous Office Action, and incorporated herein.

9. Claims 59-60, 89, 12-13, and 91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goetz et al. (US 6,421,650 B1) as applied to claims 51 and 58 above, and further in view of Liff et al. (5,797,515).

(A) Claims 59-60 have not been amended and are rejected for the same reasons given in the previous Office Action, and incorporated herein.

(B) Referring to claim 89, Goetz discloses a method comprising:

entering via an electronic prescription creation device a prescription for a drug (abstract, lines 1-12 of Goetz; the Examiner interprets "medication management system" to be a form of "prescription creation device");

viewing a drug use evaluation alert on a graphical user interface of the electronic prescription creation device (abstract, lines 19-25 & col. 4, lines 50-52 of Goetz);

viewing on the graphical user interface a query of whether a user desires to override the drug use evaluation alert and entering via the electronic prescription creation device an override of the drug use evaluation alert (col. 12, lines 3-10 of Goetz).

Goetz does not disclose creating a paper prescription printed with a printer in communication with the electronic prescription creation device

Liff discloses creating a paper prescription printed with a printer in communication with the electronic prescription creation device (Fig. 1, item 56 and col. 5, lines 58-63 of Liff).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Liff within Goetz. The motivation for doing so would have been to easily generate a document at a document printer containing additional instructions for the patient or practitioner (col. 5, lines 58-63 of Liff).

(C) Referring to claim 12, Goetz discloses the paper prescription including indicia thereon communicating that the user has overridden the drug use evaluation

alert (col. 16, lines 42-47 of Goetz; the Examiner interprets "note" to be a form of "indicia").

(D) Referring to claim 13, Goetz discloses the indicia including the drug use evaluation alert (col. 16, lines 42-47 of Goetz; the Examiner interprets "describing the interaction" to be a form of "alert").

(E) Referring to claim 91, Goetz discloses a computer-readable medium having instructions stored thereon, the instructions when executed by an electronic prescription creation device cause the electronic prescription creation device to (col. 1, lines 51-59 of Goetz):

create a prescription for a patient (Fig. 20 of Goetz);

present on a graphical user interface of the electronic prescription creation device a drug use evaluation alert (Fig. 23 of Goetz);

present on a graphical user interface a representation that queries whether a user desires to override the drug use evaluation alert (col. 11, lines 29-39 of Goetz); and

receive from the user an override of the drug use evaluation alert (col. 11, lines 29-39 of Goetz).

Goetz does not disclose to create a paper prescription printed with a printer in communication with the electronic prescription creation device containing the override.

Liff discloses to create a paper prescription printed with a printer in communication with the electronic prescription creation device (Fig. 1, item 56 and col. 5, lines 58-63 of Liff).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Liff within Goetz. The motivation for doing so would have been to easily generate a document at a document printer containing additional instructions for the patient or practitioner (col. 5, lines 58-63 of Liff).

10. Claims 54, 64, 69, and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goetz et al. (US 6,421,650 B1) as applied to claims 51-52, 58, 62-63, 65, and 67-68 above, and further in view of Adams (US 2002/0055856 A1).

(A) Claims 54, 64, and 69 have not been amended and are rejected for the same reasons given in the previous Office Action, and incorporated herein.

(B) The amendment to claim 70 appears to have been made to merely correct minor typographical or grammatical errors (i.e., removing dashes, removing repetitive language, and re-arranging the order of claim elements so that the language of the claim is smoother and more consistent), but otherwise does not affect the scope and breadth of the claim as originally presented and/or in the manner in which the claim was interpreted by the Examiner when applying prior art within the previous Office Action.

As such, the recited claimed features are rejected for the same reasons given in the prior Office Action, and incorporated herein.

11. Claim 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goetz et al. (US 6,421,650 B1) in view of Liff et al. (5,797,515) as applied to claims 51, 58-60 above, and further in view of Adams (US 2002/0055856 A1).

(A) Claim 61 has not been amended and is rejected for the same reasons given in the previous Office Action, and incorporated herein.

Response to Arguments

12. Applicant's arguments filed 5/4/05 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 5/4/05.

(1) Applicant argues that Goetz does not teach a method or system that allows communication between a prescriber and a prescription processor. Rather, Goetz teaches a medication management system that requires a patient component, physician component, and a pharmacist component.

(2) Applicant argues that Goetz fails to provide a means for communicating the prescription and override of a drug use evaluation alert over a network between a prescriber and a prescription processor. Furthermore, Goetz requires a patient component while Applicant's invention does not contemplate use of a patient component.

(3) Applicant argues that Goetz fails to teach that the prescription processor utilizes the override from the prescriber and that the pharmacist compares any alerts it receives with any overrides from the physician.

(4) Applicant argues that Goetz fails to teach that a reason for an override can be entered using a prescription creation device and transmitted to a prescription processor. Goetz merely suggests that a physician may override an interaction in instances when substitute drugs are not available or would cause more severe interactions.

(5) Applicant argues that Goetz does not teach nor provide a means for transmission of an override over a network.

(6) Applicant argues that Goetz does not teach or even discuss whether a generic drug can be substituted for a brand name drug when dispensing a patient's prescription. Goetz does not address the issue of brand versus generic drugs and in no way teaches or describes the use of an "as written" feature related to the dispensing of prescriptions.

(A) As per the first argument, the Examiner disagrees as Fig. 6 of Goetz displays communication amongst the three components of Goetz's invention. It is readily apparent that Goetz teaches interaction between the physician/prescriber and the pharmacist/prescription processor.

(B) As per the second argument, the Examiner respectfully submits that the patient component in Fig. 6 of Goetz provides a means for communication between a prescriber and a prescription processor. In addition, it is respectfully submitted that Goetz discloses the use of a network, such as the Internet or a Personal Area Network (PAN) (col. 12, lines 50-59 and col. 6, lines 22-26 of Goetz). As such, it is readily apparent that Goetz teaches a means for

communicating the prescription and override of a drug use evaluation alert over a network between a prescriber and a prescription processor.

(C) As per the third argument, the Examiner disagrees as col. 11, line 40 – col. 12, line 10 of Goetz discloses the pharmacist utilizing information received from the physician and conducting additional drug evaluations and checking for potential interactions and cautions before prescribing the drug. As such, it is readily apparent that Goetz teaches that the prescription processor utilizes the override from the prescriber and that the pharmacist compares any alerts it receives with any overrides from the physician.

(D) As per the fourth argument, the Examiner respectfully submits that Goetz discloses at col. 16, lines 42-47, the generating of a "specific caution note" and reporting the interaction and permitting the drug to be prescribed. In addition, at col. 12, lines 16-21, Goetz discloses that the patient is able to read about the interaction and consult the physician or pharmacist for more information. As such, it is readily apparent that Goetz discloses a reason for an override.

(E) As per the fifth argument, the Examiner respectfully submits that Goetz teaches the transmission of an override over a network at col. 11, lines 29-39 and col. 6, lines 20-26.

(F) As per the sixth argument, the Examiner respectfully submits that Goetz discloses at Fig. 15, the option of substituting a generic drug for a brand name drug. Also, at col. 12, lines 3-19 and col. 10, lines 56-62, it is respectfully submitted that Goetz teaches the use of an "as written" feature by disclosing situations where substitute drugs are either unavailable or would cause even

more severe interactions. In such a scenario, the "as written" drug would be prescribed. As such, it is readily apparent that Goetz addresses the issue of brand versus generic drugs.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches a method of prescribing pharmaceuticals and article of commerce therefor (5,992,890).

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is

571-272-7072. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LN
ln
8-30-05

JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600